

**AMENDMENTS TO THE CLAIMS**

1-28 (Cancelled)

29. (Currently amended) Apparatus for securing a foundation form disposed on a moisture barrier membrane comprising:

an elongated stake comprised of an elongated body extending along a defined axis and formed of a rigid material, said stake extends from a head forming a first end of an upper portion of said elongated body to a tapered tip forming an opposing second end of a lower portion of said elongated body; and

a sealing member disposed at a location along an axial length of said stake forming a seal around a periphery of said stake at said location and extending radially away from said an axis defined along a length of said stake; and

wherein said upper portion comprises a frangible section separable from a remainder of said elongated body at a location defined by at least one break-point where said elongated body is modified to provide a reduced shear strength as compared to a remainder of said elongated body.

30. (Currently amended) The apparatus according to claim 29 further comprising a sealant disposed on a surface of said sealing member nearest said tapered tip.

31. (Currently amended) The apparatus according to claim 29 wherein said sealing member is slidably mounted to said stake along an axial length thereof.

32. (Original) The apparatus according to claim 29 wherein said sealing member includes a flexible portion that forms said seal around said periphery of said stake.

33. (Original) The apparatus according to claim 29 wherein said sealing member includes at least one of an elastic or resilient portion that forms said seal around said periphery of said stake.

34. (Currently amended) The apparatus according to claim 29 wherein said ~~stake~~ break-point includes at least one bore extending through said stake in a direction transverse to ~~said axis~~ a length of said elongated body.

35. (Currently amended) The apparatus according to claim 29 wherein said ~~stake comprises at least one structure to permit a portion of said stake to be removed~~ break point comprises a structural modification of said elongated body selected from the group consisting of a scored portion and a hollowed portion.

36. (Cancelled)

37. (Original) The apparatus according to claim 29 wherein said sealing member includes a ridge disposed on an outer rim thereof spaced apart from said periphery of said stake.

38. (Original) The apparatus according to claim 29 further comprising a channel formed between said periphery of said stake and an outer rim of said sealing member spaced apart from said periphery.

39. (Currently amended) A disposable stake for a foundation form comprising:

~~an elongated~~ a stake comprised of an elongated body extending along a defined axis and formed of a rigid material, said stake extends from a head forming a first end of an upper portion of said elongated body to a tapered tip forming an opposing second end of a lower portion of said elongated body;

~~at least one structure to permit a portion of a length of said stake to be removed;~~

wherein said upper portion comprises a frangible section separable from a remainder of said elongated body at a location defined by at least one break-point where said elongated body is modified to provide a reduced shear strength as compared to a remainder of said elongated body, said break point comprising a structural modification of said elongated body selected from the group consisting of a scored portion, a hollowed portion, and a bore formed transverse to a length of said stake.

40. (Cancelled)
41. (New) The disposable stake according to claim 39, further comprising a sealing member disposed at a location along a length of said stake forming a seal around a periphery of said stake at said location and extending radially away from said axis.
42. (New) The apparatus according to claim 41 wherein said sealing member is slidably mounted to said stake along said length thereof.
43. (New) The apparatus according to claim 41 wherein said sealing member includes a flexible portion that forms said seal around said periphery of said stake.
44. (New) The apparatus according to claim 41 wherein said sealing member includes at least one of an elastic or resilient portion that forms said seal around said periphery of said stake.
45. (New) The apparatus according to claim 41 wherein said sealing member includes a ridge disposed on an outer rim thereof spaced apart from said periphery of said stake.
46. (New) The apparatus according to claim 41 further comprising a channel formed between said periphery of said stake and an outer rim of said sealing member spaced apart from said periphery.
47. (New) The apparatus according to claim 41 further comprising a sealant disposed on a surface of said sealing member nearest said tapered tip.
48. (New) The apparatus according to claim 47, further comprising a non-stick tape disposed on said sealant.
49. (New) Apparatus for securing a foundation form disposed on a moisture barrier membrane comprising:

a stake comprised of an elongated body extending along a defined axis and formed of a rigid material, said stake extends from a head forming a first end of an upper portion of said elongated body to a tapered tip forming an opposing second end of a lower portion of said elongated body;

a sealing member disposed at a location along a length of said stake forming a seal around a periphery of said stake at said location and extending radially away from said axis; and

wherein said upper portion comprises a frangible section separable from a remainder of said elongated body at a plurality of break-points where said elongated body is structurally modified to provide a reduced shear strength as compared to a remainder of said elongated body.

50. (New) The disposable stake according to claim 49, further comprising a sealing member slidably disposed at a location along a length of said stake forming a seal around a periphery of said stake at said location and extending radially away from said axis, and a sealant disposed on a surface of said sealing member nearest said tapered tip covered by a layer of non-stick tape.

51. (New) The apparatus according to claim 49, wherein said structurally modified portion is selected from the group consisting of a scored portion, a hollowed portion, and a bore formed transverse to a length of said stake.